

E-filed 2/1/2017

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARTHA ANGELICA ROSSI,
Plaintiff,
v.
GAYLE FAIRBANKS,
Defendant.

Case No.16-cv-02875-HRL

**ORDER FOR REASSIGNMENT TO A
DISTRICT COURT JUDGE**

**REPORT AND RECOMMENDATION
RE: DISMISSAL FOR FAILURE TO
PROSECUTE**

The plaintiff in this action twice failed to appear at case management conferences scheduled for October 11, 2016, and January 10, 2017. Dkt. Nos. 14, 20. After the plaintiff's second failure to appear, the court issued an order to show cause why the case should not be dismissed for failure to prosecute. Dkt. No. 21. The show cause order set a hearing date of January 24, 2017, and stated: "[i]f plaintiff fails to appear, the case may be dismissed for failure to prosecute." *Id.* The plaintiff failed to appear at the show cause hearing. Dkt. No. 22.


Having considered the five factors set forth in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987), the undersigned has determined that notwithstanding the public policy favoring the disposition of actions on their merits, the court's need to manage its docket and the public interest in the expeditious resolution of the litigation require dismissal of this action. In view of plaintiff's lack of response to this court's prior order(s), the undersigned finds there is no appropriate less drastic sanction.

Because the defendant has yet to consent to the undersigned's jurisdiction, this court **ORDERS** the Clerk of the Court to reassign this case to a District Judge. The undersigned further **RECOMMENDS** that the newly assigned judge dismiss this case without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). Any party may serve and file

objections to this Report and Recommendation within fourteen days after being served. Fed. R.
Civ. P. 72.

IT IS SO ORDERED.

Dated: 2/1/2017



HOWARD R. LLOYD
United States Magistrate Judge

United States District Court
Northern District of California